

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 04069**, a text amendment to Title 27 of the Lincoln Municipal Code, requested by the Director of Planning, by adding section 27.69.035(b)(8) to require that no off-premises signs shall be located within 660 feet of Interstate 80 and Interstate 180.

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/27/04; 11/10/04 and 11/24/04
Administrative Action: 11/10/04 and 11/24/04

RECOMMENDATION: Approval (6-2: Carroll, Sunderman, Pearson, Marvin, Taylor and Carlson voting 'yes'; Krieser and Larson voting 'no'; Bills-Strand absent).

FINDINGS OF FACT:

1. This proposed amendment would require that no off-premises signs shall be located within 660 feet of Interstate 80 and Interstate 180.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that the proposed areas have been previously regulated by the Nebraska Department of Roads; however, after a recent circumstance in Omaha and recent effort to amend the State's statutes restricting billboards along the Interstate highways, the State's policy to regulate off-premises signs is in question. This proposal provides for local control of off-premises signs involving interstates within the City of Lincoln jurisdiction.
3. The proposed text amendment language is found on p.12.
4. The minutes of the Planning Commission hearings are found on p.4-8. Testimony in support is found on p.4 and p.6. Testimony in opposition is found on p.4-5, including testimony by a representative of Lamar Outdoor Advertising. At the continued public hearing on November 10, 2004, there was also testimony in opposition by Jim Fram, on behalf of the Lincoln Chamber of Commerce and the Lincoln Partnership for Economic Development (p.6-7). The letter submitted by Mr. Fram in opposition is found on p.25. The opposition believes that this legislation is an over-reaction to what occurred in Omaha and represents another layer of regulations that is not necessary.
5. The additional information provided by the Planning staff in response to questions raised at the initial public hearing is found on p.13-24. The response indicates a willingness to make further adjustments to the sign code in the future, if warranted, as part of a careful, planned effort to market Lincoln.
6. On November 10, 2004, a motion for approval failed 4-3 (Carlson, Pearson, Carroll and Marvin voting 'yes'; Larson, Krieser and Bills-Strand voting 'no'; Sunderman and Taylor absent). See Minutes p.7-8.
7. On November 24, 2004, there was no further public testimony and no further discussion. The majority of the Planning Commission agreed with the staff recommendation and voted 6-2 to recommend approval (Krieser and Larson dissenting; Bills-Strand absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 30, 2004

REVIEWED BY: _____

DATE: November 30, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04069

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for October 27, 2004 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #04069 - Off Premises Signs

PROPOSAL: Text amendments to :

Zoning, Title 27 LMC;

The addition of: **27.69.035, b, (8): No off-premises signs shall be located within 660 feet of Interstate 80 and 180.**

CONCLUSION: This proposed amendment provides for regulation of off-premises signs along Interstates 80 and 180. The proposed areas have been regulated by the Nebraska Department of Roads in the past. However, after recent circumstances in other jurisdictions, the state's policy to regulate off-premises signs is in question. This proposal provides for local control of off premises signs involving interstates within the City of Lincoln's jurisdiction.

RECOMMENDATION:	Approval of the attached text
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HISTORY: Local zoning regulations for the city of Lincoln have been in place since 1979 with minor changes. In addition the State of Nebraska, since 1959, has been regulating off-premises signs along the interstate with various permitting controls as well as advertising control easements.

COMPREHENSIVE PLAN SPECIFICATIONS:

Preserve and enhance entryway corridors into Lincoln and Capitol View Corridors. (F19)

Most cities, including Lincoln, protect their cultural/architectural heritage through formal historic preservation efforts. Lincoln has taken further steps to protect and promote a positive physical character through special design requirements that protect the environs and views of the State Capitol Building -- our community's signature urban design asset -- and that encourage compatible infill in its older neighborhoods. The Capitol Environs Commission is unique in that its membership includes city and state appointees, and its authority extends to all public and private projects within its district, including State projects. Its authority to identify and project important public vistas to the Capitol should be strengthened. (F19)

ANALYSIS:

1. Currently, the City of Lincoln regulates off-premises signs by: minimum distances between signs, entryways to the city at the corporate limits, and in sensitivity zones including historic districts, landmark districts, and the capitol environs.
2. Off-premises signs are allowed in B-1, B-3, B-4, H-1, H-2, H-3, H-4, and I-1 zoning districts. There are several of these districts abutting Interstates 80 and 180 (see attached map).

3. Since the 1950's the Nebraska Department of Roads regulated off-premises signs along the interstate system in and surrounding communities. These areas were determined by each community's corporate limits in 1959 outward along the interstate system. Since these regulations were in place at the state level, most communities, including the City of Lincoln, left the control of off-premises signs in certain areas up to the state. These regulations, due to recent events in the Omaha metro area, are no longer enforced statewide. As a result of this change of enforcement, the Omaha area saw an increase of 18 new billboards along its' interstate system.
4. The state's decision to not enforce the billboard regulations left openings in which billboards (off premises signs) could be installed.
5. The city should not rely on the state to control signs along the interstate.
6. Investigation of the recent events in Omaha are ongoing to fully understand how they pertain to the City of Lincoln and its jurisdiction.

Prepared by:
Derek Miller, AICP 441-6372, dmliller@lincoln.ne.gov,
Planner
October 18, 2004

APPLICANT: Director of Planning
555 South 10th Street, Suite 213
Lincoln, NE 68508

CONTACT: Derek Miller, AICP
555 South 10th Street, Suite 213
Lincoln, NE 68508
(402) 441-6372

CHANGE OF ZONE NO. 04069

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 27, 2004

Members present: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand; Marvin, Sunderman and Krieser absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

Derek Miller of Planning staff presented the proposal. This amendment proposes to regulate off-premises signs along Interstate 80 and Interstate 180. This application is in response to recent events that have occurred in the Omaha area and the state policy regulating off-premises signs.

Miller advised that since the 1950's the State Department of Roads has been regulating off-premises signs, and they are being regulated from the boundaries of communities outward. That definition is being questioned as to whether it relates to the corporate limits or the jurisdictional limits. Since the 1950's, the boundary had been defined as the corporate limits. The NDOR has recently come to the conclusion that the boundary would mean the zoning jurisdiction of that community rather than the corporate limits. Because of that interpretation, 18 new billboards went up recently in the Omaha area. Certain advertising companies have applied for permits with the state and the state has looked to the local jurisdictions. Signs currently in place would be allowed to remain. This would only apply to new signs. Any new sign would not be allowed to be within 660 feet of the interstate. This only pertains to off-premises signs.

Opposition

1. Martha Lee Heyne testified in opposition on behalf of **Lamar Outdoor Advertising**, which is the majority provider of billboards within Lincoln. She provided a brief history of the billboard regulations in the Lincoln community. She believes that the proposed additional regulation has been brought forward as an over-reaction to what occurred in Omaha. Monte Fredrickson of the State Department of Roads indicates that this regulation is not necessary. The change in Omaha does not affect any property adjacent to the Interstate in Lincoln because it was not a part of the Lincoln city limits prior to September 21, 1959, which is when the incentive program went into play. The change regulating the interstate only affected the three-mile stretch in Omaha in the entire State of Nebraska. The State of Nebraska currently owns all of the advertising easements from "L" Street in Omaha all the way west to the Colorado and Wyoming border, so Lincoln is already protected. There is simply no need for this additional regulation.

In 1999, Heyne stood in front of the Planning Commission in defense of her industry. It is a service that provides economic development for our community. Lamar has removed 23 billboard structures in the community and has not replaced one of them, the result being that there are twenty-three landowners not receiving rent checks. It is indeed a "cap and no replace" regulation because

of the multiple layers of regulations imposed on the industry by this community. Although this proposed regulation does not directly affect Lamar, she does not understand why the sign industry is an ongoing target for a slow death sentence in this community.

Taylor inquired as to the indirect effect on Lamar. Heyne stated that additional regulations are making the existing billboards nonconforming. Therefore, any billboards that are within the 660' would be considered nonconforming. Lamar's goal is to pull people off the interstate and get them into our community to spend money in our community. She gave the example of the Motel 6 sign at mile post 395. It is within the city's three-mile jurisdiction so it would become nonconforming. If it would be blown down, it could not be replaced. And the landowner loses the rent and the business would no longer have interstate signage.

2. Robbie Carlson, 4717 S. 153rd Street, Omaha, testified in opposition. He has been in the outdoor industry since the late 1970's and has been involved with a lot of federal and state regulations. There is no way this change could occur in Omaha without legislative action and easement issues. The federal and state regulations control up to 660 feet inside the limits of an incorporated municipality. When you get outside of that 660 feet, the federal and state regulations are no longer in the picture and a permits is not required from the state. This makes the city legally responsible for allowing the sign. It is Mr. Carlson's opinion that 660 feet is not gaining anything and half the time you can't read the signs being that far away. He believes it should be regulated but not prohibited.

The Commission reviewed the letter from the State Department of Roads.

Carroll inquired as to how many of the existing billboards would become nonconforming. Rick Peo of the City Law Department was thinking that the existing billboards that did not meet spacing requirements were already made nonconforming when the original ordinance was passed. He would need to further research the ordinance to evaluate the restrictions as to whether the signs could be rebuilt or not.

Bills-Strand noted that the memo from the State Department of Roads states, "...we believe we did purchase easements on the rest of the interstate including around Lincoln." Miller acknowledged that is what the state has said, "we believe", but they have been unable to provide proof that the easements exist. The state "thinks" that have easements in Omaha from L Street back to the Missouri River, but they are unable to find any record of the easements.

Carlson referred to section 27.69.035(b)(5) which is in existence, stating that, "Within one-fourth mile on either side of the corporate limits of the City, the minimum distance between an off-premises sign and any of the below listed entrance corridors to the City shall be 800 feet....". He believes that language is already more restrictive. Miller observed that the measurement is from the corporate limits and basically refers to an entrance corridor protection. Carlson thought it included the corporate limits when it states "either side of the corporate limits".

Carlson inquired as to the state and federal regulations now. If we're concerned that we need to do something because there is potential for no state oversight, what is the regulatory protection that we are losing? Miller responded that the state was regulating up to the 1959 corporate limits, and now

they have changed to regulate up to the zoning jurisdiction. This is being proposed because we don't know what the state is going to do. Miller was uncertain as to the spacing requirement by the state. Carlson clarified then that if the state does not regulate, we want to have the same requirement that the state currently requires. Miller concurred.

Bills-Strand suggested a deferral.

Miller further offered that this regulation picks up from where we believe the state has left off as far as policy change. This does not change the regulations, but puts it under local control versus state control.

Bills-Strand wants a definition of the nonconforming issue and the impact of the nonconforming use. She believes it does have an economic impact.

Taylor moved to defer two weeks, with continued public hearing and action on November 10, 2004, seconded by Carroll and carried 6-0: Carlson, Taylor, Larson, Pearson, Carroll and Bills-Strand voting 'yes'; Marvin, Sunderman and Krieser absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 10, 2004

Members present: Carlson, Pearson, Carroll, Marvin, Larson, Krieser and Bills-Strand; Sunderman and Taylor absent.

Staff recommendation: Approval.

Ex Parte Communications: None.

Proponents

1. Derek Miller of Planning staff referred to the memorandum to the Planning Commission dated November 2, 2004, which attempts to answer questions raised at the last meeting. Carlson confirmed that the local ordinance that is being proposed would be the same distance requirements as that which the state currently has, i.e. 660 feet. The intention is to create a local voice. Miller concurred.

Support

1. Danny Walker, 427 E Street, testified in support; however, he does not understand how the state can dictate where those signs are located when Omaha is being taken to the cleaners by the federal government right now. Does the state have authority over where these signs are being placed? If that is the case, why didn't Omaha use this process?

Larson understands that the state had easements on everything except for that strip in Omaha, and it was recently discovered that there was no easement so they put up 18 signs in that area. He believes the state has an easement along the rest of the interstate to the west.

Opposition

1. Jim Fram, President of the **Lincoln Chamber of Commerce and Lincoln Partnership for Economic Development**, testified in opposition. He also previously submitted a letter dated November 2, 2004, in opposition. The Chamber and LPED believe that this proposed ordinance puts an unnecessary separate layer of regulation on businesses because it is already accomplished with ordinances already in place on the local and state level. We already have the law in Lincoln that billboards cannot be constructed. Local control includes local input and there should be input from the five sign companies and input from some of the more than 7,000 businesses that depend on signage. This is an over-reaction to something that is happening 50 miles away from here. When are we going to stop letting Omaha dictate what we do in our city? There are sufficient regulations in place on signage to maintain the beauty of Lincoln's entryways. The Chamber and LPED have sanctioned and helped finance two very extensive studies, both of which gave indications throughout the report that there is inadequate signage and inadequate visual things that attract people to Lincoln when traveling on I-80. This proposal is an unnecessary layer of bureaucracy in our community. If it is redundant, we don't need it.

Staff questions

Carlson asked staff to respond to Mr. Walker's comments. Marvin Krout, Director of Planning, stated that Omaha got caught with their pants down locally and he does not want Lincoln to be in that same position. The Department of Roads thought they had easements. They still think they have easements along the interstate through Lincoln but they cannot verify the easements. There was an area found where there were no easements in place and, under a different interpretation of the statute, these 18 billboards in Omaha were permitted. He also understands that the billboard company also compensated the Department of Roads due to the fact that the state will get reduced federal funding because they are not doing as good of a job protecting the interstate highway under the Beautification Act. Krout does not believe Lincoln should rely completely on the federal or state government to write the rules for what kinds of signs you are going to permit along the interstate into and out of Lincoln. It should be an issue of local control. He does not believe we should let the state and federal government dictate what the rules are going to be and get ourselves into the same position as Omaha.

Bills-Strand inquired whether Krout believes this adds one more layer of regulation and will result in more time to get things accomplished. Krout stated that it is not going to change the situation today. However, if the state decides to sell off their easements to allow more billboards; or if the state changed their regulations as was proposed in last year's legislative session; or if the Beautification Act is changed, then, yes, in some cases on some sites it would put an obstacle in the way of doing an off-site sign. Lincoln has gone 40 years based on this belief that we have been protected, and we've gotten through a major issue with billboards in the community with lots of public outcry. The result was no new regulations on the interstate because we thought we were protected by federal and state government. Given what happened in Omaha, and given what happened in the Legislature last year, Krout does not think we should count on being protected. No new billboards may mean that you can't construct another billboard. The ordinance today allows a new billboard in a new location if you take one down somewhere. The ones on the interstate are much more valuable than the locations in the city, and if the opportunity arises, he predicts that Lamar will be at the door of Building & Safety.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 10, 2004

Carlson moved approval, seconded by Carroll.

Carlson believes that it behooves the City to create a layer of local control. It does not create two processes, but it is a backup rule in case the state changes.

Larson stated that he will vote against the motion. The interstate's relationship to our community is such that it goes around the edge and we have thousands of automobiles passing our community daily. He does not believe we have adequate signage to direct these automobiles to our attractions and we're missing out on tourism and other economic benefits.

Marvin commented that he is hearing that this does not change the rules or loosen it up. This will provide the protection of the rules that are in place. Thus, he will vote in favor to make sure we have people play by the rules that we think are in place.

Motion for approval failed 4-3: Carlson, Pearson, Carroll, and Marvin voting 'yes'; Larson, Krieser and Bills-Strand voting 'no'. Motion needs five affirmative votes to carry.

There being no other motion, this application was held over for continued public hearing and action on November 24, 2004.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

November 24, 2004

Members present: Carroll, Krieser, Sunderman, Pearson, Marvin, Taylor, Larson and Carlson; Bills-Strand absent.

Staff recommendation: Approval.

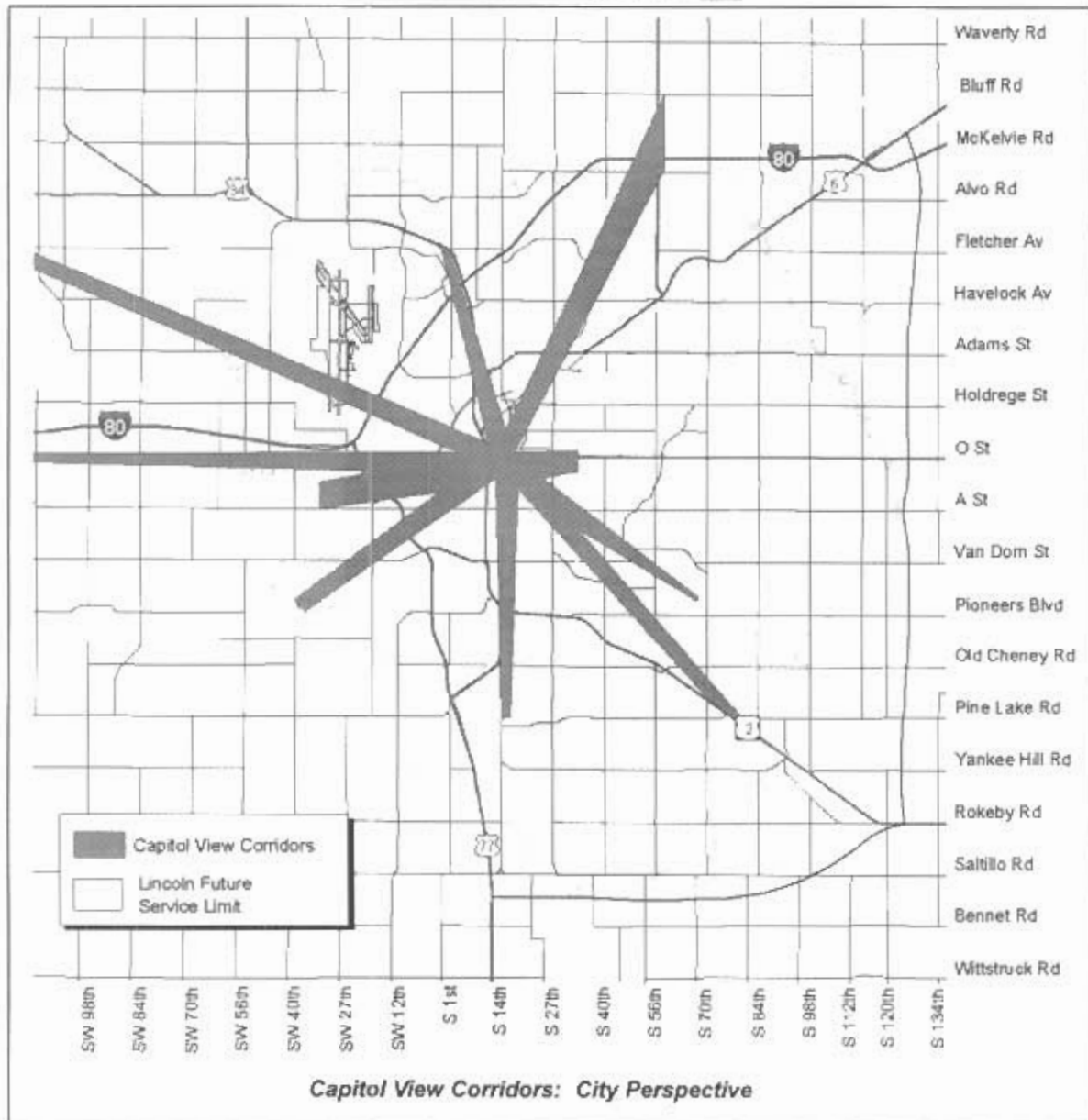
Ex Parte Communications: None.

There was no further public testimony.

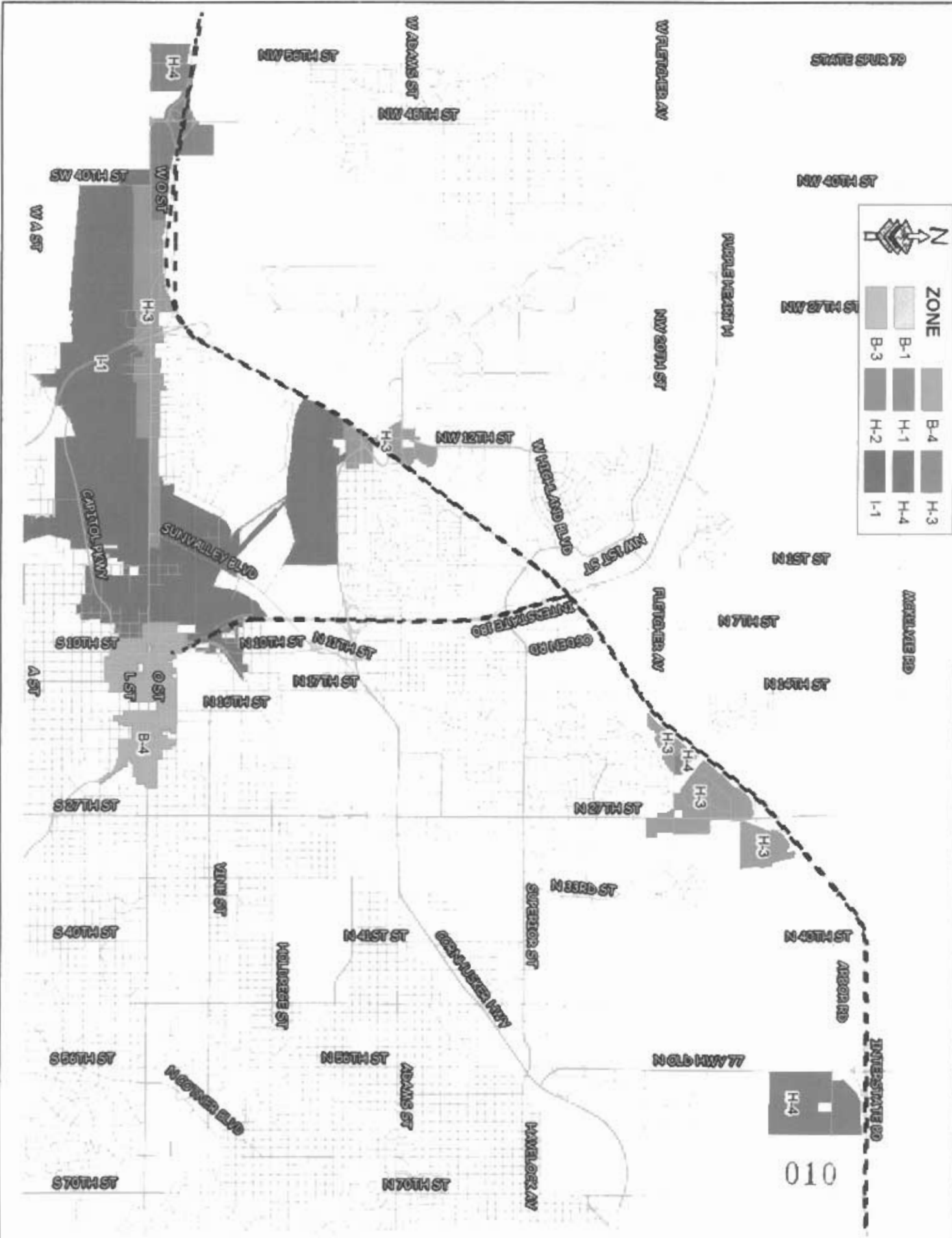
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

November 24, 2004

Taylor moved approval, seconded by Carroll and carried 6-2: Carroll, Sunderman, Pearson, Marvin, Taylor and Carlson voting 'yes'; Krieser and Larson voting 'no'; Bills-Strand absent. This is a recommendation to the City Council.



F 19a



27.69.035 Off-Premises Signs.

(a) Administrative Permits. Off-premises signs are permitted in the B-1, B-3, B-4, H-1, H-2, H-3, H-4, and I-1 zoning districts by administrative permit issued by the Director of Building and Safety.

The administrative permits shall automatically expire ten years from their date of issuance. The permittee may make application for renewal of the administrative permit.

(1) Applications for administrative permits and renewals thereof shall include:

(i) The legal description of the land upon which an off-premises sign is to be located.

(ii) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the off-premises sign shall be located to locate the off-premises sign thereon.

(iii) The area of the proposed off-premises sign.

(iv) The description and location of a nonconforming off-premises sign or signs encompassing equal or greater total face area (rather than area of sign) to be removed or previously removed and registered with the Department of Building and Safety following the effective date of this ordinance and not replaced; except that this provision shall not be applicable for applications for renewal of an administrative permit. For the purpose of this section, a nonconforming off-premises sign shall mean any off-premises sign which was lawfully installed on the effective date of this ordinance and for which an administrative permit has not been issued.

(2) The administrative permit and any renewals thereof shall be issued under the following conditions:

(i) The off-premises sign shall be subject to the provisions of this section, notwithstanding any other applicable regulation of the zoning district in which the off-premises sign is located.

(ii) The nonconforming off-premises sign or signs identified in the application for removal shall be removed prior to application for the permit or within 30 days of the date of the issuance of the permit.

(iii) The off-premises sign shall be removed within 30 days following the expiration of the permit.

(b) Siting Limitations.

(1) The minimum distance between an off-premises sign and an existing off-premises sign or nonconforming off-premises sign shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the existing off-premises sign or nonconforming off-premises sign is located.

(2) The minimum distance between an off-premises sign and a public elementary or public high school, private school having a curriculum equivalent to a public elementary or public high school, college or university, park, or cemetery shall be 600 feet measured in all directions regardless of the zoning jurisdiction in which the public elementary or high school, private school having a curriculum equivalent to a public elementary or public high school, university, park, or cemetery is located.

(3) No off-premises sign shall be permitted in the areas designated as District A, District B, or District C of the Capitol View Corridor Overlay District.

(4) No off-premises sign shall be permitted within the B-4 zoning district area bounded by 10th Street, 14th Street, N Street, and P Street.

(5) Within one-fourth mile on either side of the corporate limits of the City, the minimum distance between an off-premises sign and any of the below listed entrance corridors to the City shall be 800 feet measured in all directions.

- (i) Interstate 80 and 180;
- (ii) West Bypass and "K" and "L" Extension;
- (iii) U.S. 77 north of Morton Street;
- (iv) Nebraska Highway 2;
- (v) U.S. 6;
- (vi) Cornhusker Highway;
- (vii) North 27th Street;
- (viii) "O" Street.

(6) Off-premises signs shall be located a minimum of 150 feet or one-half of the depth of the zoning district in which the off-premises sign shall be located, whichever is greater, measured in all directions from all residential zoning districts.

(7) No off-premises signs shall be located within 600 feet measured in all directions from a sensitivity zone. For the purpose of this section, a sensitivity zone shall mean an historic district, historic landmark, and Capitol environs.

(8) No off-premises sign shall be located within 660 feet of Interstate 80 and 180.

(c) Lighting. Illumination of off-premises signs shall not be allowed from midnight to 5:00 a.m. If off-premises signs are illuminated, the lighting shall be provided by downlighting methods, until such time as sign illumination standards are adopted by resolution of the City Council and thereafter it shall in accordance with design standards. The lighting shall be controlled by an automatic timing device.


(d) Abandoned Signs. In addition to all other applicable regulations, off-premises sign structures and existing nonconforming off-premises sign structures which contain no sign copy on all faces for a continuous period of six months shall be considered an abandoned sign and shall be removed. This removal shall take place within ten days of the date of the abandonment.

(e) Removal of Existing Nonconforming Off-Premises Signs. For each new off-premises sign of a given total face area (rather than area of sign) to be erected within the zoning jurisdiction of the City in conformance with this section, an existing nonconforming off-premises sign or signs encompassing equal or greater total face area shall be removed.

(f) Notwithstanding (e) above, upon request of the applicant, the City Council may, after report and recommendation of the Planning Commission, grant the applicant a bonus of one additional offpremises sign of equal square footage to the nonconforming off-premises sign to be removed upon a finding that the nonconforming off-premises sign to be removed is located in an area of special aesthetic value to the community and that removal of the nonconforming off-premises sign in question is a special desire of the community. (Ord. 17585 §3; January 10, 2000: prior Ord. 17526 § 1; July 12, 1999).

TO: Planning Commission

CC: Lamar Outdoor Advertising
Robbie Carlson
Rick Peo

FROM: Derek Miller 

DATE: November 2, 2004

REF: CZ 04069: Text Amendment (Billboards)

This memo is in reference to the questions that arose at the October 27th Planning Commission hearing. The questions included: (1) what is the definition of nonconforming signs? (2) how does the state regulate billboards now? (3) do advertising easements exist along the Interstate? and (4) do billboards promote economic development?

1. The following excerpts were taken from the City of Lincoln Municipal Code.

27.69.320 Nonconforming Signs.

All nonconforming signs shall be brought into compliance when one or more of the following occurs:

(a) When a sign is damaged by accident or act of God or when any part is damaged in excess of fifty percent of its replacement value at the time such damage occurs.

(b) When a change or replacement of part of the sign structure occurs.

(c) When the sign is required to be moved because of a local, state, or federal project.

(d) When a painted wall sign is repainted.

Face changes will be allowed to a nonconforming sign. (Ord. 16735 §35; February 13, 1995; prior Ord. 14613 §39; March 9, 1987).

2. The State Department of Roads currently regulates off premises signs by the following (Taken from Title 410 - Nebraska Department of Roads - Right of Way Division):

002.05C4(b) Interstate System - Class III(off premises signs) Signs must be located in Cotton or Kerr Areas with spacing as follows:

002.05C4(b)(1) Inside the Corporate Limits of a Municipality - Signs along the Interstate Highways shall not be erected or maintained in any place where they are visible from the main-traveled way of the National System of Interstate and Defense highways, where they

are closer than two hundred and fifty feet to another sign structure on that side of the highway. Such spacing shall be measured along and parallel to the centerline of the Interstate.

002.05C4(b)(2) Outside the Corporate Limits of a Municipality - No sign may be located within interchange areas and within five hundred feet of the point where traffic enters or leaves the main-traveled way (measuring along the Interstate from the sign to the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main-traveled way) and no sign shall be erected so that it is located closer than five hundred feet to another sign structure on that side of the highway. Such spacing between signs shall be measured parallel to the centerline of the Interstate.

002.05C4(b)(3) Areas in which advertising control easements have been acquired: No Class III advertising sign, display or device shall be permitted.

002.01E COTTON AREA: Any area bounded on each end by two lines extended perpendicularly from the centerline of the Interstate Highway to both edges of the Interstate Right of Way. This area must have been a highway, road, or street public right of way on or before July 1, 1956. The area outside the Interstate Right of Way and extending six hundred and sixty feet beyond the edge of the Interstate and between the two extended perpendicular lines is a Cotton Area excluding any existing public right of way. (See typical examples in Attachment One).

002.01L KERR AREA: Kerr Area shall mean that area adjacent to an Interstate Highway where it traverses commercial or industrial zones, within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the Interstate System is subject to municipal regulation or control, or where it traverses other areas where the land use as of September 21, 1959, was clearly established by State law as industrial or commercial.

A map is included showing the area along the interstate, the City of Lincoln's corporate limits prior to 1960, and the City of Lincoln's zoning jurisdiction prior to 1960.

There are also State regulations that limit size, spacing, and lighting of signs.

The Nebraska Department of Roads regulations on off premises signs are attached for further information.

3. The State Department of Roads indicates that they "believe" advertising easements were acquired at the time of the Interstate' construction for all of the land west of the L Street interchange in Omaha. However, they have no centralized records and cannot confirm this belief. One location was investigated, and an advertising easement was found owned by the State. (Attached)
4. It was suggested at the initial Planning Commission hearing on this issue that permitting new billboards along the Interstate can be important to local economic development efforts. Planning staff spoke to the Mayor's economic development coordinator and former economic development officer for the state, about this claim. He did not agree with the claim that adding billboards along the Interstate would be a stimulus to economic development. He concurred with the Planning staff that projecting an attractive visual image is important to his work of attracting and retaining the kind of higher paying jobs and workers. Other points regarding this issue:

Hundreds of communities across the country, including some of the highest growing communities in the country, have regulations that prohibit construction of any new billboards. These communities, often supported by their local Chambers of Commerce, have decided that a proliferation of these signs detracts from rather than supports their economic futures. Studies of communities that adopted more restrictive billboard regulations show that total retail and restaurant sales in the community were unaffected by those regulations.

The Public Opinion Survey of Planning and Development Issues in Lincoln and Lancaster County, conducted in November 2000 as part of the last update of the Comprehensive Plan, found a majority of residents agreeing that "Lincoln should place more emphasis on the physical appearance of the city, including managing signs, landscaping and architecture." This community concern was expressed at about the same time, when dozens of new billboards suddenly were erected along arterial streets and the City Council acted to amend the zoning ordinance and establish new restrictions that are now in effect.

Travel-oriented businesses located along the Interstate have existing advertising options. Lincoln's on-site business signs are quite liberal for the travel-oriented businesses that tend to cluster along highway corridors, and the State has a "logo" sign program that can be used to advertise travel-oriented services in a larger area beyond the corridor.

Hand-held electronic devices (PDAs), cell phones, and in-car information systems increasingly are being used to provide travel information, and future technology will bring further advances in this area. The State's 511 Travel Information System may be programmed in the future to include advertising for travel-oriented businesses.

Allowing more billboards along the Interstate would provide a very limited opportunity for a small proportion of the city's businesses to advertise their goods and services. In addition, many billboards are typically leased by national companies selling products and services that are not at all locally oriented.

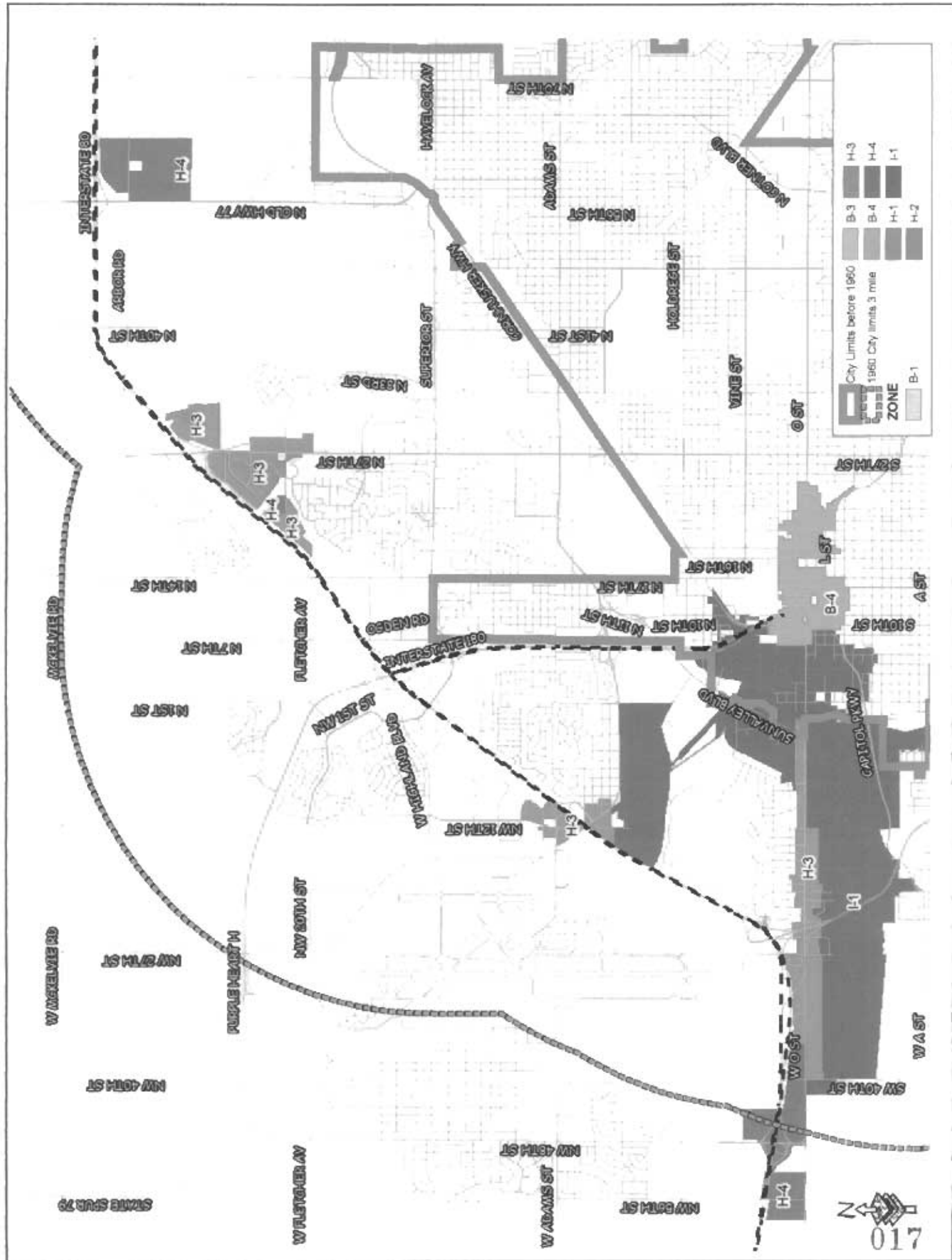
The state roads department had told Omaha that they had acquired advertising easements along the entire length of I-80, and it turned out that they were wrong. The 18 new billboards in Omaha went up on properties that was not protected by easements. The State now indicates that they "believe" they have easements for all the land west of L Street in Omaha west to Wyoming. But they do not have copies of these easements and cannot verify their existence.

In the future, the Planning Department would be glad to be part of a community dialogue to determine if and where and what kind of additional advertising signage may be needed to promote visitor attractions, as the letter from the Chamber president suggests, and the sign ordinance can always be adjusted in the future for that purpose. In the meantime, however, the Planning Department still believes it is appropriate to move quickly and adopt these new restrictions, in order to avoid a "surprise" like Omaha's, and in order to place the issue of billboard regulation under local control where it belongs, instead of deferring to the state or federal governments.

For general information there approximately 190 billboards that are tracked by the city. (Attached list, informational purposes only) There are several hundred more that are located in the city's jurisdiction that are not documented.

Derek Miller, AICP
Lincoln Lancaster County Planning Department
555 South 10th St.
Lincoln, NE 68508

402-441-6372



Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 3 - Sign Permits (Continued)

002.05 CLASS III SIGNS

002.05A Class III Signs are those signs located in zoned and unzoned commercial and industrial areas which are not classified as either Class I, Class II, Class IV or Class V Signs.

002.05B All signs located within urban areas and more than six hundred and sixty feet from the edge of the right of way of the HBCS are exempt from these Regulations.

002.05C Conforming Class III Signs - Restrictions and Requirements

002.05C1 All Class III Signs must obtain a permit from the Nebraska Department of Roads.

002.05C2 The lighting for Class III Signs must comply with the requirements set forth in Section 002.08 of these Rules and Regulations.

002.05C3 Class III Signs - Size Requirements.

002.05C3(a) The maximum area for any Class III advertising sign shall be one thousand square feet.

002.05C3(b) These Rules and Regulations shall not prevent the erection of a double faced, stacked, back-to-back, side-by-side or V-type construction with a maximum of two sign faces per side with the maximum area of one thousand square feet allowed for each side. Such signs must be physically connected and of substantially the same size and under the same ownership.

002.05C4 Class III Signs - Spacing Requirements.

002.05C4(a) Primary HBCS, except for the Interstate, System - Class III Signs must be located in properly zoned or unzoned areas with spacing as follows:

002.05C4(a)(1) Inside the Corporate Limits of a Municipality - The number of sign structures on the same side of the HBCS, except for the Interstate, within zoned or unzoned commercial or industrial areas shall not exceed the length of the frontage as measured along the centerline of the highway divided by one hundred feet, providing that structures shall be spaced at least one hundred feet apart. Such spacing shall be measured along and parallel to the centerline of the highway and providing further that no sign shall be permitted in an area fifty feet parallel to the existing right of way line and within fifty feet from the nearest edge of the right of way.

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Chapter 3 - Sign Permits (Continued)

002.05C4(a)(2) Outside the Corporate Limits of a Municipality - The number of sign structures on the same side of the HBCS, except for the Interstate, within zoned or unzoned commercial or industrial areas shall not exceed the length of the frontage as measured along the centerline of the highway divided by two hundred and fifty feet, providing that structures shall be spaced at least two hundred and fifty feet apart. Such spacing shall be measured along and parallel to the centerline of the highway and providing further that no sign shall be permitted in an area one hundred feet parallel to the existing right of way line and within one hundred feet from the nearest edge of the right of way.

002.05C4(a)(3) Exceptions - These spacing provisions do not apply to signs separated by a building or structure in such a manner that only one sign located within the prescribed spacing is visible from the highway at any one time.

002.05C4(b) Interstate System - Class III Signs must be located in Cotton or Kerr Areas with spacing as follows:

002.05C4(b)(1) Inside the Corporate Limits of a Municipality - Signs along the Interstate Highways shall not be erected or maintained in any place where they are visible from the main-traveled way of the National System of Interstate and Defense Highways, where they are closer than two hundred and fifty feet to another sign structure on that side of the highway. Such spacing shall be measured along and parallel to the centerline of the Interstate.

002.05C4(b)(2) Outside the Corporate Limits of a Municipality - No sign may be located within interchange areas and within five hundred feet of the point where traffic enters or leaves the main-traveled way (measuring along the Interstate from the sign to the nearest widening constructed for the purpose of acceleration or deceleration of traffic movement to or from the main-traveled way) and no sign shall be erected so that it is located closer than five hundred feet to another sign structure on that side of the highway. Such spacing between signs shall be measured parallel to the centerline of the Interstate.

002.05C4(b)(3) Areas in which advertising control easements have been acquired: No Class III advertising sign, display or device shall be permitted.

002.05D CHANGEABLE MESSAGE SIGN (CMS): An outdoor advertising sign, display or device which changes the message or copy on the sign by electronic or mechanical device or process, regardless of the technology used. CMS are considered outdoor advertising signs and subject to all applicable regulations and subject to the following:

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Chapter 3 - Sign Permits (Continued)

002.05D1 CMS must conform to general spacing requirements of 002.05C4 and the specific spacing requirements of 002.05D2.

002.05D2 No two (2) CMS structures may have sign facings erected less than five thousand (5000) feet apart measured from the center of the sign supports nearest the highway along a line parallel with the highway. CMS structures may be located on either side of the highway; however, each sign must only be visible from one direction of travel and must comply with the 5,000-foot spacing on each side.

002.05D3 CMS structures must conform to the size requirements of 002.05C3.

002.05D4 Conforming sign structures may be modified to a CMS upon compliance with CMS standards and obtaining a permit in accordance with 002.12.

002.05D5 Nonconforming sign structures will not be modified to a CMS.

002.05D6 Each advertisement displayed must remain fixed for at least ten (10) seconds. If there is more than one advertisement per face, then when any advertisement changes, the entire face shall remain fixed for ten (10) seconds.

002.05D7 When an advertisement is changed, it must be accomplished with an interval of two (2) seconds or less.

002.05D8 CMS must contain a default mechanism that will freeze the sign in one position if a malfunction occurs.

002.05D9 CMS shall be constructed as a single structure with only one face intended to be visible from each direction of travel, as viewed from a point 100 feet from the centerline of the sign measured horizontally along a line normal or perpendicular to the centerline of the highway.

002.05E NONCONFORMING CLASS III SIGNS: Class III Signs that do not meet the size, lighting, and spacing requirements, or are not located in properly zoned or unzoned commercial or industrial areas.

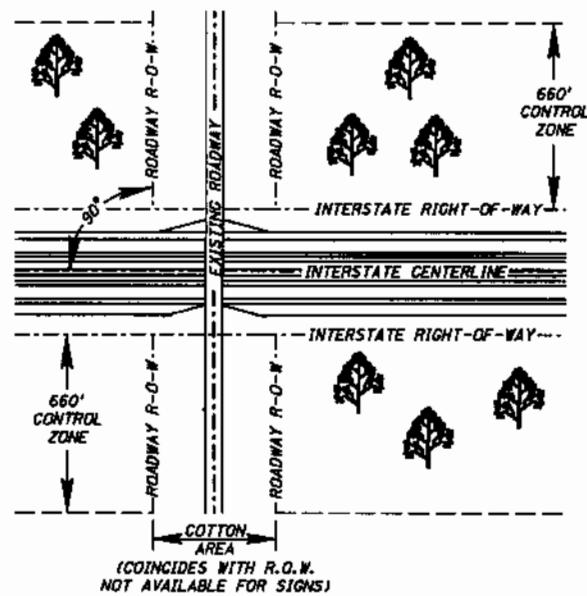
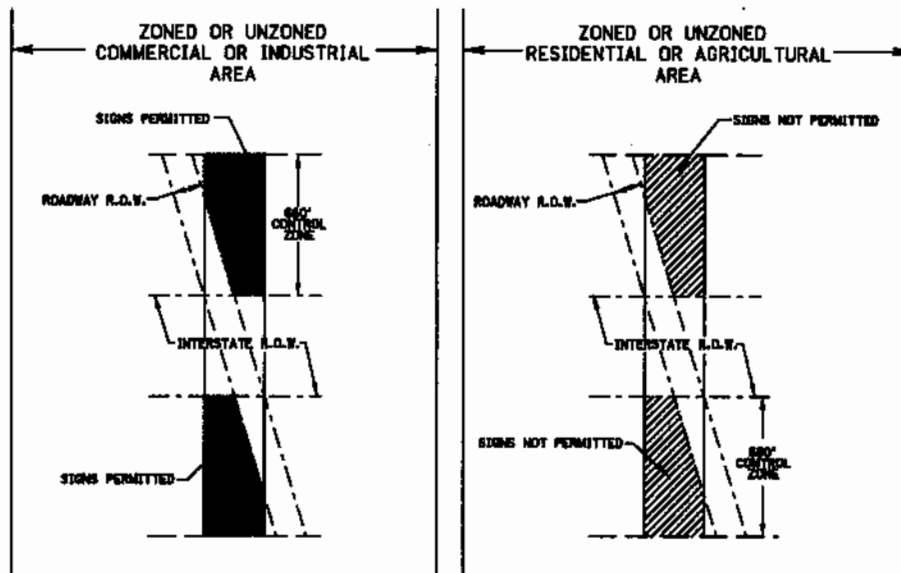
002.05E1 These rules and regulations shall not be construed to require the purchase of Nonconforming Class III Signs by the Nebraska Department of Roads if such signs were lawfully in existence on March 27, 1972, and located within zoned or unzoned commercial and industrial areas as defined in 39-1302 Neb.Rev.Stat.

002.05E2 Nonconforming Class III Signs, other than those described in Section 002.05E1 above, will be subject to purchase as required by the Nebraska Department of Roads as funds become available.

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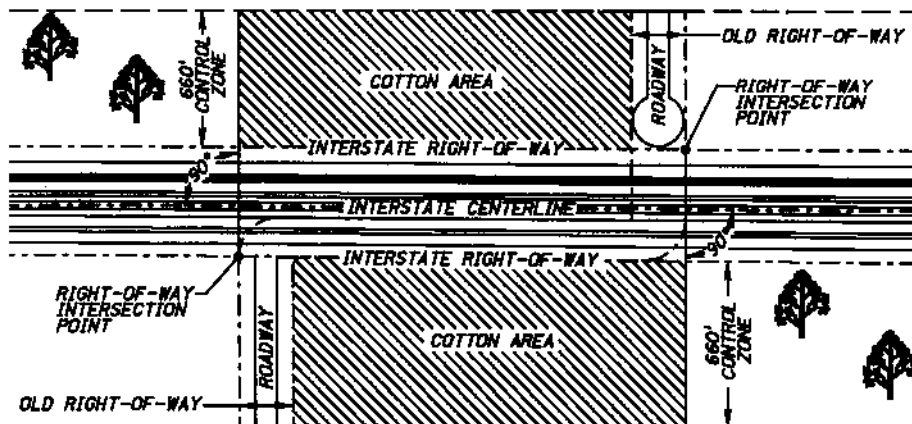
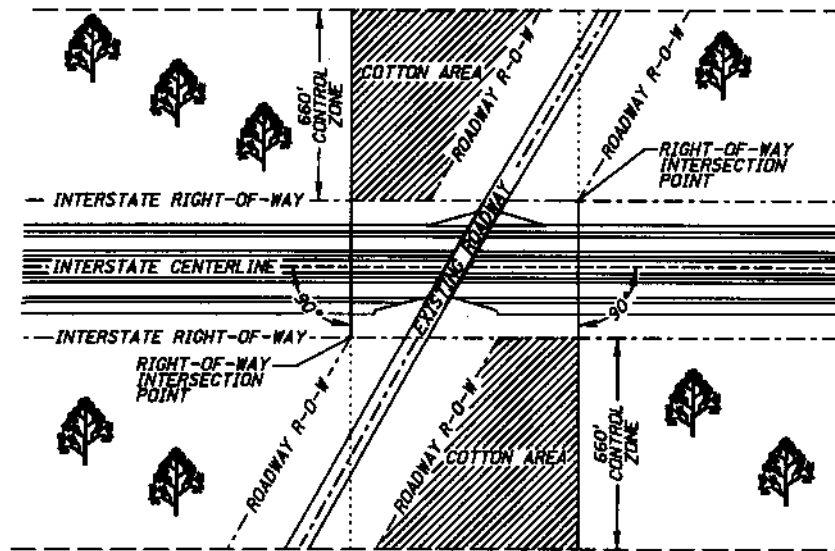
Chapter 3 - Sign Permits (Continued)

ATTACHMENT ONE - COTTON AREAS
1958 ACT AND 1965 ACT COMBINED



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Chapter 3 - Sign Permits (Continued)
ATTACHMENT ONE (continued)



BILLBOARD LOCATIONS**2/18/04**

3301 A St	1445 N 48th St	5001 O St	3835 South St
940 Calvert St	1530 N 48th St	7001 O ST	3855 South St
1421 Center Park Rd	2436 N 48th St →	7010 O St	140 Sun Valley Blvd
1000 Cornhusker Hwy	1401 N 56th St	1000 Oak St	203 Sun Valley Blvd
1301 Cornhusker Hwy	4945 N 56th St	5050 Old Cheney Rd	230 Sun Valley Blvd
1321 Cornhusker Hwy	6050 N 56th St	5601 Old Cheney Blvd	601 Sun Valley Blvd
1443 Cornhusker Hwy	501 N 66th St	2540 Park Blvd	1001 Sun Valley Blvd
1500 Cornhusker Hwy	624 N 66th St	2600 Park Blvd	3201 Superior St
1805 Cornhusker Hwy	1402 N 66th ST	700 Pioneers Blvd	3401 Superior St
1840 Cornhusker Hwy	900 N 70th St	900 Pioneers Blvd	3501 Superior St
2100 Cornhusker Hwy	3003 N 70th St	1528 Pioneers Blvd	3601 Superior St
2301 Cornhusker Hwy	3841 N 70th St	3321 Pioneers Blvd	5401 Superior St
2801 Cornhusker Hwy	801 N 7th St	4730 Pioneers Blvd	5555 Superior St
3010 Cornhusker Hwy	5550 N 7th ST	800 Q St	8805 US Hwy 6
3101 Cornhusker Hwy	5951 N 84th ST	1707 Q St	8900 US Hwy 6
3320 Cornhusker Hwy	6000 N 84th ST	940 R St	200 Van Dorn St
3740 Cornhusker Hwy	6040 N 84th ST	2537 Randolph St	250 Van Dorn St
4401 Cornhusker Hwy	6330 N 84th ST	3219 S 10th St	744 Van Dorn St
4545 Cornhusker Hwy	660 N St	2020 S 13th St	744 Van Dorn St
4925 Cornhusker Hwy	2032 N St	4911 S 14th St	800 Vine St
5401 Cornhusker Hwy	2300 N St	300 S 17th ST	1720 Vine ST
5450 Cornhusker Hwy	2001 NE Hwy 2	254 S 21st ST	1301 West Adams St
5580 Cornhusker Hwy	4903 Ne Hwy 2	1001 S 27th St	130 West Cornhusker Hwy
6219 Havelock Ave.	5001 Ne Hwy 2	4242 S 33rd St	400 West Cornhusker Hwy
1843 Holdredge St	5301 NE Hwy 2	4206 S 48th St	4301 West Hwy 34
5520 Holdredge St	5501 NE Hwy 2	5600 S 48th St	4801 West Hwy 34
2401 J St	4749 Normal Blvd	5700 S 56th St	101 West O st
926 L St	2403 NW 12th St	2700 S 70th St	210 West O St
1608 M St	2900 NW 12th ST	3802 S 9th ST	225 West O St
8300 N 120th ST	600 NW 56thSt	2400 S Folsom St	235 West O st
2201 N 14th ST	118 O ST	850 S St	325 West O St
2401 N 14th St	720 O St	901 S St	335 West O St
800 N 17th St	1605 O St	3219 S. 10th St	401 West O St
335 N 27th ST	1742 O St	910 S. 26th St	755 West O st
611 N 27th St	1831 O ST	135 S. Coddington	760 West O St
701 N 27th St	2011 O ST	1220 Saltillo Rd	951 West O St
1101 N 27th ST	2055 O St	1221 Saltillo Rd	951 West O St
2534 N 27th ST	2132 O St	1400 Saltillo Rd	1000 West O st
2595 N 27th ST	2326 O ST	1010 South St	1044 West O St
2800 N 27th ST	2524 O St	1244 South St	1125 West O st
3700 N 27th ST	2701 O St	1300 South St	2115 West O St
3901 N 27th St	2911 O St	1351 South St	4710 West O St
4101 N 27th St	3111 O ST	1415 South St	
4300 N 27th St	3250 O St	1501 South St	
6101 N 27th ST	3301 O ST	1509 South St	
2815 N 33rd St	3328 O St	1530 South St	
508 N 46th St	4139 O St	1648 South St	
945 N 48th St	4247 O St	2760 South St	
1240 N 48th St	4501 O St	3201 South St	

County

I-102 (21)

R-172b

Tract 48

THIS INDENTURE, Made this 11 day of July
1962, Between Lana King and Helen M. Stein

hereinafter called the Grantors, whether one or more, and the State of Nebraska, hereinafter called the Grantee:

WITNESSETH, That the Grantors, in consideration of the sum of Twenty-Five and 00/100 (25.00) DOLLARS in hand paid, the receipt of which is hereby acknowledged, and the further consideration that the premises herein conveyed shall be used for the control of outside advertising signs, displays, and other advertising devices adjacent to the National System of Interstate and Defense Highways, do hereby grant, convey, and confirm unto the Grantee a permanent easement in and to a tract of land situated in Lancaster County, Nebraska, described as follows:

All that part of the Southeast Quarter of Section 36, Township 11 North, Range 6 East of the 6th M., Lancaster County, Nebraska, lying within 660 feet of the Interstate Highway right of way controlled access line as measured at right angles to the centerline of said Interstate Highway.

The Grantors, for themselves, their heirs, successors and assigns, do hereby covenant with the Grantee and its assigns, that the Grantors are lawfully seized of said premises and that the Grantors have good right and lawful authority to convey said permanent easement; and that the Grantors warrant and will defend the title to said premises against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, The Grantors have hereunto set their hands this 11 day of July, 1962.

Grantors

Lana King

Helen M. Stein

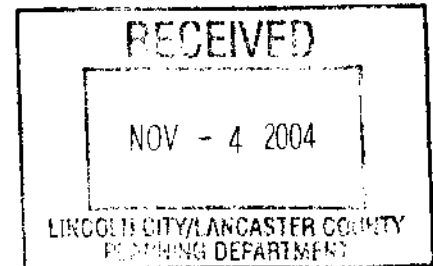
LINCOLN

*The Community of Opportunity*ACCREDITED
★ ★ ★ ★ ★

Chamber of Commerce

November 2, 2004

Mr. Marvin Krout, Director
Lincoln/Lancaster County Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508



RE: Change of Zone # 04069

Dear Director Krout:

The Lincoln Chamber of Commerce is opposed to adding more layers of unnecessary local regulations of signage along the Interstate, or for that matter, anywhere, as proposed in the above referenced proposal.

As you know, the Lincoln Chamber of Commerce is responsible for administering the Convention and Visitors Bureau (CVB) and the Lincoln Partnership for Economic Development (LPED). Both of these entities are directly involved in promoting economic activity that adds revenue to our community. LPED is concerned primarily with expanding existing businesses and attracting new jobs. The CVB is also engaged in one of the purest forms of economic development by *attracting* visitors and tourists to spend time and money in Lincoln enjoying our private and public amenities. Strategic plans commissioned by both (the Angelou Report and the Randall Travel Study) specify the need to ensure that appropriate gateway signage is in place and admonishes us for not having it there already.

I understand that even if the proposed local restrictions are not adopted we still would need to abide by state regulation. It is my further understanding that the State of Nebraska currently owns and controls the advertising easements from "L" Street in Omaha, west to Wyoming. So, it seems this is perhaps a bit of an overreaction to the "recent circumstances in other jurisdictions" noted in the Staff Report.

Finally, I would simply add my disappointment with the recent "Just Say No" article the Planning Newsletter. This looks like planning staff using the newsletter to run something akin to a political campaign. The Chamber, LPED, and CVB stand ready and willing to work with you and members of the Planning Commission to work on *attracting* visitors and new jobs, which may require signage along the Interstate. I know for sure it requires the willingness to do more than "Just Say No". Thank you for your time and consideration.

Sincerely,



Jim Flam, CCE, CED
President

cc: Mayor Coleen Seng
Planning Commission, City Council

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